IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 18092 of 1997

&

WRIT PETITION NO.2323 OF 1999

WRIT PETITION NO : 18092 of 1997

Between:

1. Malotha Hemla, S/o.Lalu, aged about 32 years, Occ; Salesman,
R/o.Kothagudem, Cherla Mandal, Khammam District.

2. Bhakya Mangtha, S/o. Bhangya, aged 31 years, R/o. Kothagudem,
Cherla Mandal, Khammam District.

3. R.Nagendra Rao, S/o.Venkateshwara Rao, aged 26 years,
R/o. Kothagudem, Cherla Mandal, Khammam District.

4. M.Srinivasulu, S/o.Venkaiah, aged 27 years, Edira (Post) Venkatapuram
Mandal, Khammam District.

5. K.Ramesh, S/o.Mallaiah, aged 29 years, Edira (Post), Venkatapuram
Mandal, Khammam District.

6. K.Prabhakar, S/o.Kistaiah, aged 29 years, Rallagudem (Post),
Cherla Mandal, Khammam District.

7. R.Satyanarayana, S/o.Laxman Rao, aged 32 years, Cherla (Post & Mandal),
Khammam District.

8. M.Y.Rathnam, S/o.Samul, aged 31 years, Venkatapuram (Post & Mandal),

Khammam District.

9. N.Gopala Rao, S/o.Rathnam, aged 32 years, Venkatapuram (Post & Mandal),

Khammam District.

10.G.V.V.Satyanarayana, S/o.Ramulu, aged 30 years,

Venkatapuram (Post & Mandal), Khammam District.

11.S.Raghu, S/o.Saraiah, aged 32 years, Venkatapuram (Post & Mandal),

Khammam District.

12.S.Madhava Rao, S/o.Mallaiah, aged 37 years, Dharmavaram Village,

Peruru Post, Wazeedu Mandal, Khammam District.

(All the petitioners are working as Salesmen at Sub-Depots of

Girijan Primary Cooperative Marketing Society Ltd.,

Venkatapuram Branch, Khammam District.)

..... PETITIONERS

AND

1.The Divisional Manager, Girijan Cooprative Corporation Ltd.,

Bhadrachalam, Khammam District.

2.The Branch Manager, Girijan Primary Cooperative Marketing Society Ltd.,

Venkatapuram Branch, Khammam District.

3.The Managing Director, Girijan Cooperative Corporation Ltd.,

Visakhapatnam, East Point Colony, Visakhapatnam,

Visakhapatnam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ or order or direction under Article 226 of the Constitution of India, particularly one in the nature of Writ of Certiorari, quashing the orders of the

third respondent herein issued in RC.No.5368/95/A5, dt.4.4.1997 and RC.No.5368/1995/A5, dt.4.4.1997 respectively, as unjust and illegal after calling for the records.

Counsel for the Petitioners:MR.PRATTIPATI VENKATESWARLU

Counsel for the Respondents: A.K. Jaswal

WRIT PETITION NO.2323 OF 1999

Between:

1. G.V.V.Satyanarayana, S/o.Ramulu, formerly Salesman, Girijan Cooperative

Corporation Ltd., R/o. Venkatapuram, Khammam District.

2. Pasupuleti Satyanarayana, S/o.Venkateswara Rao, Girijan Cooperative

Corporation Ltd., R/o.Bhadrachalam, Khammam District.

3. N.Gopala Rao, S/o.Ratnam, formerly Salesman, Girijan Cooperative

Corporation Ltd., R/o.Palwancha, Khammam District.

4. Malotha Hemla, S/o.Lalu, formerly Salesman, Girijan Cooperative

Corporation Ltd., R/o.Usirikayalapalle, Via Yellanudu, Khammam District.

5. S.Madhava Rao, S/o.Mallaiah, formerly employee of Girijan Cooperative

Corporation Ltd., R/o.Dharmavaram Village , Khammam District.

..... PETITIONERS

AND

1.The Government of Andhra Pradesh,Rep.by its Secretary,

Social Welfare, Secretariat Buildings, Hyderabad.

2.The Managing Director, Girijan Cooperative Corporation Ltd.,

Visakhapatnam, East Point Colony, Visakhapatnam,

Visakhapatnam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to

issue an appropriate order, direction or a writ particularly one in the nature of a writ of Mandamus declaring that the proceedings in RC.No.3451/97 Admn. 5, dt.11.9.1997 as arbitrary and illegal and violative of Articles 14,16 and 21 of the Constitution of India and that the petitioners herein are entitled for absorption on regular basis into the posts of salesman in-charge of the Domestic Requirements Depots in the Girijan Primary Marketing Societies Limited at Bhadrachalam, Venkatapuram and Chintoor in Bhadrachalam Division of Khammam District.

Counsel for the Petitioners:MR. Koka Raghava Rao

Counsel for the Respondent No.1: GP FOR SOCIAL WELFARE

Counsel for the Respondent No.2 : Mr. A.K.Jaswal.

The Court made the following :

COMMON ORDER:

These two writ petitions are filed questioning the proceedings in RC.No.5368/95/A5, dated 4.4.1997 and proceedings in RC.No.3451/97 Admn. 5 dated 11.9.1997 issued by the Vice-Chairman and Managing Director, Girijan Cooperative Corporation Limited, Visakhapatnam.

The case of the petitioners is that they have been working as salesmen in the depots established by the Second respondent-Girijan Cooperative Corporation Limited (for short 'the Corporation') since 1990. In the year 1995 when their services were sought to be terminated, they filed W.P.No.17867 of 1995 and in view of the interim order passed therein, the petitioners were continued and finally the writ petition was disposed of on 3.2.1997 with a direction to the respondents-Corporation to consider the case of the petitioners either in the existing or in future vacancies and till such time they shall be continued in service. However, on 4.4.1997 the second

respondent issued proceedings stating that there were no vacancies in the cadre of Salesman and accordingly, the services of the petitioners were terminated with immediate effect and the petitioners were informed that their cases would be considered in future vacancies whenever steps are taken for selection to the posts of Salesman, if they are found to be qualified and eligible for such selection. Aggrieved by the same, the petitioners filed Writ Petition No.18092 of 1997, wherein this Court passed an interim order on 05.8.1997 in W.P.M.P.No.21922 of 1997 directing the respondents to continue the petitioners as salesmen, if there were vacancies as on date, pending further orders. In view of the above interim orders, the cases of the petitioners were again taken up for consideration by the respondents-Corporation and on 11.9.1997 proceedings were issued stating that they regret to inform that all Salesmen are GCC employees working on deputation with GPCM Societies and since there are no vacancies available in GCC, they are not in a position to accommodate the petitioners as Salesmen. Aggrieved by the same, W.P.No.2323 of 1999 is filed.

A detailed counter affidavit is filed by the respondents-Corporation denying the allegations made by the petitioners and it is asserted that the contention of the petitioners that they were appointed as Salesmen by respondents-Corporation and they have been working for about seven years from 1990 is not at all correct. The petitioners have never been appointed as regular salesmen, but they were engaged as commission agents only on commission basis at the rate of Rs.500/- or at the rate of Rs.7.32 commission per quintal in respect of rice. The margin was being paid to the petitioners as per the guidelines of Civil Supplies Corporation in respect of Sugar, Palmolin Oil, Wheat and Kerosene Oil as per the actual quantities sold by them. Subsequently, in the year 1993, the Revenue authorities have allotted the fair price shops to Scheduled Tribe women candidates in Scheduled areas vide Government Memo in RC.No.15361/CS/IV and the fair price shops have been surrendered to Revenue Divisional Officer, Bhadrachalam to allot dealership and thus the commission agents were dispensed with. However, it is admitted that the petitioners have filed various writ petitions before this Court and in view of non-availability of vacancies the services of the petitioners were terminated. Further, the Government also ordered not to engage any NMR/OSDS in the Corporation without prior approval of it. Further, there is a ban imposed by the Government for recruitment in the Corporation.

An additional counter affidavit is also filed since in the original counter affidavit, the allegations as to the paper statement issued by the erstwhile Managing Director as to availability of vacancies was not met with. In the additional counter affidavit it is stated that the Government of A.P. was pleased to sanction the staff structure to the Girijan Cooperative Corporation Limited, vide G.O.Ms.No.112 Social Welfare (S) Department, dated 08.7.1994, wherein they have agreed to subsidize the entire staff costs. The Government sanctioned staff structure of the Corporation through the said G.O.Ms.No.112 wherein only 666 posts of Salesmen were sanctioned, whereas 769 Salesmen are already working in the Corporation. Thus there are 103 excess Salesmen working in the Corporation. It is stated that the Government of A.P. through its G.O.Ms.No.28 SW (SZ) Department, dated 19.3.1996 sanctioned 200 D.R. Depots without sanctioning any additional posts of Salesmen and indicated that the entire additional staff would be redeployed for running the D.R. depots. For statistical purpose, the respondents-Corporation prepared statements showing the vacancy position and even according to that statistics, 200 additional D.R. Depots, which were sanctioned by the Government, though the excess staff was redeployed, 91 D.R. Depots remained unmanned. Thus there are no vacancies available. However, it was assured in the additional counter affidavit that the respondents-Corporation, as already stated in the impugned order dated 4.4.1997, would consider the cases of the petitioners in future against the future vacancies whenever steps are taken for selection to the post of Salesmen, if they are found qualified and eligible for such selection.

In view of the above stand taken by the respondents-Corporation, the relief as sought for in the writ petitions cannot be granted. Time and again, respondent No.2 has assured that as and when vacancies arise in future and as and when the ban is lifted by the Government, as the case may be, the cases of the petitioners would be considered if they are otherwise qualified for being appointed as Salesmen or any other post.

In view of the above, the respondents are directed to consider the cases of the petitioners as and when vacancies arise in future, on preferential basis, for appointment to the post of Salesmen or any other post, for which, they are eligible and qualified, or immediately after the ban for recruitment is lifted by the

Government. However, learned counsel for the petitioners by placing an order of the respondents-Corporation in RC.No.712/200/B, dated 12.7.2002 showing that as many as 33 persons were promoted to the cadre of Junior Salesman by the Divisional level recruitment and promotional committee, contended that the respondents-Corporation may be directed to consider the cases of the petitioners in those vacancies. Such a submission cannot be accepted since the respondents have already given assurance earlier more than once before this court that they would be considering the cases of the petitioners as and when vacancies arise in future if they are otherwise qualified. However, it is open for the respondents-Corporation to consider the cases of the petitioners for being engaged otherwise than by regular recruitment, if there is any necessity of utilizing their services in the Corporation.

With the above directions, the writ petitions are disposed of. No order as to costs.

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C.V. RAMULU,J

15th JUNE, 2005

Tsr.

To,

1.The Secretary, Social Welfare Department, Government of Andhra Pradesh,

Secretariat Buildings, Hyderabad

2.The Divisional Manager, Girijan Cooprative Corporation Ltd.,

Bhadrachalam, Khammam District.

3.The Branch Manager, Girijan Primary Cooperative Marketing Society Ltd.,

Venkatapuram Branch, Khammam District.

4.The Managing Director, Girijan Cooperative Corporation Ltd.,

Visakhapatnam, East Point Colony, Visakhapatnam,

Visakhapatnam District.

5 Two C.C.s to Government Pleader for Social Welfare, High Court Buildings, Hyderabad (OUT).

6. 2 CD copies.